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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/091,634	03/05/2002	James Richard Mock SR.	117P60US01	9156
23322	7590	12/30/2003	EXAMINER KOKABI, AZADEH	
IPLM GROUP, P.A. POST OFFICE BOX 18455 MINNEAPOLIS, MN 55418			ART UNIT 3743	
			PAPER NUMBER	

DATE MAILED: 12/30/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/091,634

Applicant(s)

MOCK ET AL.

Examiner

Azy Kokabi

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5 and 7-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5 and 7-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 2-5, 7-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nelli et al ('193) in view of Schaub ('331)

Nelli discloses a device and method for introducing a chemical into a liquid. The method consists of providing a product (figure 1, #38 and column 4, lines 4-6), providing a permeable bag into which the product is placed (column 3, line 20), and placing the bag into a cavity of a feeder (figure 1, #32). The feeder has an inlet (figure 1, #14) and an outlet (figure 1, #16), which are in fluid communication with the cavity (see figure 1).

Further, Nelli discloses the method of supplying water (figure 1, #34) to the inlet and allowing the water to flood into the cavity to dissolve a portion of the product to create a use solution (column 4, lines 22-26). The use solution exists through the outlet of the feed and flows into a swimming pool (column 4, lines 32-35).

Nelli further discloses a swimming pool having a circulation system with a pump, filter, (column 1, line 39) and a heater (column 1, line 40) wherein the feeder is in fluid communication with the circulation system (column 1, lines 35-40). Nelli discloses a method of providing a product (figure 1, #38 and column 4, lines 4-6), providing a feeder (figure 1, #10), having a water inlet (figure 1, #14), a cavity (figure 1, #32), and a use solution outlet (figure 1, #16) wherein the use solution is in fluid communication with the cavity (see figure 1). Additionally, a permeable member or bag (figure 1, #36) is placed between the product and the use solution outlet (see figure 1) wherein the permeable member prevents products from exiting the cavity through the outlet (see column 3, lines 18-31). The permeable member is a mesh member that covers the use solution outlet (column 3, lines 9-11).

Further, Nelli discloses placing the product in the cavity of the feeder (see column 3, lines 65-66), supplying water (figure 1, #34) to the inlet and allowing the water to flood into the cavity to dissolve a portion of the product to create a use solution (column 4, lines 22-26). The use solution exists through the outlet of the feed and flows into a swimming pool (column 4, lines 32-35). The permeable member is a mesh member that covers the use solution outlet (column 3, lines 9-11).

Although Nelli discloses several chemicals that may be used in the device, including chloroisocyanurates, Nelli fails to disclose the use of cyanuric acid. It is well known in the art that cyanuric acid is frequently utilized as a stabilizer for the chlorine used to sanitize swimming pools (see applicant's disclosure, pg 1-2)

Schaub ('331) discloses a dispenser to dispense chemicals, such as cyanuric acid in to a swimming pool (see abstract). The float dispenser floats on a swimming pool and carries a

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tablet, which dispenses into the water. Schaub teaches that the tablet used in the dispenser may comprise cyanuric acid compound (see column 4, line 40-45).

In view of Schaub, it would have been obvious to one of ordinary skill to have dispensed cyanuric acid in the device of Nelli in order to stabilize chlorine in a swimming pool.

Nelli also discloses that when the chemical in the bag (#36) is depleted, the bag is “recharged with the chemical.” (see at least column 4, lines 65-68). Nelli fails to teach that the bag is replaceable. Schaub teaches that when the tablet is dissolved or depleted, the tablet is replaced with another tablet. (see abstract).

Therefore, in view of Schaub, it would have been obvious to one of ordinary skill in the art to have replaced the bag of chemicals in the dispensing device of Nelli in order to enable a user to reuse the device.

Nelli further discloses that the regulation of flow of a liquid that can be controlled through a control valve. Nelli teaches that “for a less soluble chemicals, the flow is increased, and for more soluble chemicals, even to the point where there is a nearly saturated solution on the outside of the barrier member, the regulation is achieved by decreasing the flow of water through the device” (see column 5, lines 8-15). The rate in which a product is dispensed depends on the amount of water flowing through the permeable bag (column 5, lines 8-13).

Nelli, however fails to specify the dispensing rate of the product per hour.

It would have been obvious to one of ordinary skill in the art to have provided the approximate dispensing rate of a product per hour since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges

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involves only routine skill in the art (see MPEP 2144.05). The dispensing rate of the product can be controlled by the amount of flow through the feeder.

Affidavit

4. The affidavit has been considered but does not overcome the rejection. The affidavit filed on 11/4/03 include(s) statements which amount to an affirmation that the affiant has never seen the claimed subject matter before. This is not relevant to the issue of nonobviousness of the claimed subject matter and provides no objective evidence thereof. See MPEP § 716.

Additionally, the affidavit refer(s) only to the system described in the above referenced application and not to the individual claims of the application. Thus, there is no showing that the objective evidence of nonobviousness is commensurate in scope with the claims. See MPEP § 716. Furthermore, the affidavit states that the claimed subject matter solved a problem that was long standing in the art. However, there is no showing that others of ordinary skill in the art were working on the problem and if so, for how long. In addition, there is no evidence that if persons skilled in the art who were presumably working on the problem knew of the teachings of the above cited references, they would still be unable to solve the problem. See MPEP § 716.04.

Response to Arguments

5. Applicant's arguments with respect to claims 2-5, 7-27 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

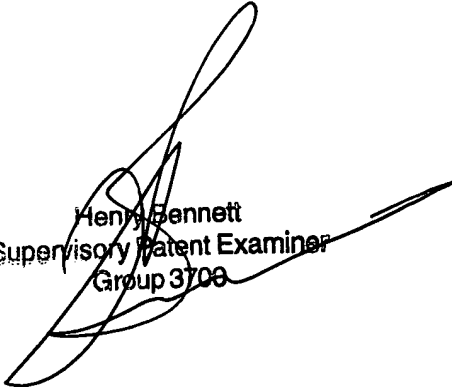
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Azy Kokabi whose telephone number is (703) 306-4154. The examiner can normally be reached on Monday- Friday, 6:30am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on (703) 308-0101. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3588.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

AK



Henry Bennett
Supervisory Patent Examiner
Group 3700